

## **REMARKS**

In an Office Action dated 24 September 2009, all of pending claims 1-41 are rejected on prior art grounds. In reply, Applicant herein amends claims 1, 12, 13, 23, 25, 29, 36, and submits the present remarks. Entry and consideration hereof are respectfully requested. The Examiner's various rejections are now addressed in turn.

Claims 1-7, 15, 16, 23, 24, and 29 are rejected under 35 USC 102 as allegedly lacking novelty in view of US 2005/0066423 to Hogan. In reply, independent claims 1, 23, 25, and 29 are herein amended to generally recite a multi-layer seat pad requiring, inter alia, that a middle layer is fixed to at least one of inner and outer layers such that the middle layer is immovable relative to the respective inner and outer layer. As will now be discussed in detail, this feature is not disclosed in Hogan and, in fact, the reference is directed to an opposite configuration. Accordingly, the enumerated claims are patentable over Hogan

A critical feature of the Hogan patent is that the middle (cushioning) layer floats independently between the top and bottom layers. Hogan accomplishes this by sewing the top and bottom layers together to form a pouch-like area enveloping the middle layer. See, for example, paragraph 0039 where Hogan first states: "It should be noted that specific construction details are important aspects of the invention." Then the reference continues by stating that, "The padded layer 42 is not sewn or adhered to the top layer 40 or bottom layer 44, 46 of the chamois 34, 34'...Rather, the top and bottom layers in either embodiment are sewn together and surround or envelope the padded layer so that the padded layer moves to the extent possible, independently from the chamois and within the envelope formed by the chamois 34, 34' top 40 and bottom layers 44, 46." Hogan refers to this construction as "YFACTOR" and states that it helps eliminate or reduce bunching of the chamois (see paragraph 0039, right column, page 4). Hogan's YFACTOR construction is clearly distinct and wholly contrary to the provision of currently amended claims 1, 23,

25, and 29 which requires that a middle layer of the claimed seat pad is fixed to at least one of inner and outer layers such that the middle layer is immovable relative to the respective inner and outer layer. Thus, for at least this reason, claims 1, 23, 25, and 29 are novel to Applicant. Additionally, claims 2-7, 15, 16, and 24 variously depending therefrom are also correspondingly novel. Therefore, reconsideration and withdrawal of the respective novelty rejection is requested. Claims 1-7, 15, 16, 23, 24 and 29 are not further rejected and are thus allowable.

Furthermore, it is noted that claim 12 as rewritten herein specifies that the middle layer delimits an outer perimeter of the seat pad. The floating construction of Hogan's middle layer would make it impossible for the Hogan middle layer to delimit an outer perimeter of its seat pad. Accordingly, for at least for this reason, claim 12 is novel and non-obvious; reconsideration and withdrawal of the respective section 102 rejections is requested.

Claims 8, 12, 13, 30, and 31 are rejected under 35 USC 103 as allegedly being obvious in view of Hogan as combined with US 2003/0163076 to Lukens. All of these claims variously depend from allowable independent claims 1 and 29 and are thus correspondingly non-obvious and hence allowable; reconsideration and withdrawal of the respective rejections is requested.

Claims 9-11, 25-28, and 36-41 are rejected under section 103 as allegedly being obvious in view of Hogan as combined with Lukens and US 6,547,327 to Yates. Claims 9-11 variously depend from allowable independent claim 1 and are thus correspondingly non-obvious and allowable. Independent claims 25 and 36 are amended herein similarly to claim 1 discussed above. Thus, for at least the reasons expressed concerning claim 1, claims 25 and 36 are novel, non-obvious, and hence allowable. The remaining claims 26-28 and 37-41 variously depend from allowable claims 25 and 36 and are thus hence allowable.

Claims 14, 17, and 18 are rejected under section 103 as allegedly being obvious over Hogan in view of US 6,393,618 to Garneau. These claims variously depend from allowable claim 1 and are thus correspondingly allowable; reconsideration and withdrawal of the respective rejections is requested.

Finally, claims 19-22 and 32-35 are said to be obvious in view of Hogan. These claims variously depend from allowable independent claims 1 and 29 and are thus correspondingly allowable; reconsideration and withdrawal of the rejections is requested.

It is noted that the references combined with Hogan in the obviousness rejections do not remedy the deficiencies of Hogan which are addressed above with respect to the novelty rejections. Moreover, further distinctions exist between the claimed invention and these additionally relied-upon references.

For example, the Examiner relies on Lukens for a teaching of perforations which traverse through a clothing item. Lukens discloses an athletic protector cup that seems to include some sort of ventilation holes. The Examiner contends that it would have been obvious to modify the seat pad of Hogan to include the ventilation holes of the athletic protector of Lukens "in order to provide a seat pad that has proper ventilation in order to ensure comfort of the wearer." However, Applicant submits with emphasis that Hogan requires a moveable middle cushion layer, thus ventilation holes formed through the seat pad would be wholly ineffective once the middle layer moved even just slightly such that the ventilation holes formed through the various layers were no longer aligned.

Furthermore, the Examiner relies on Yates for a teaching of recessed perforations as recited, e.g., in claims 9-11. The Yates reference teaches a seat pad 10 having a plurality of openings 20 formed therethrough for ventilation where each opening 20 is set into a recessed pocket 24. The pockets 24 are formed by omitting a middle gel layer from the area of the pad 10 where the pockets 24 are located, such that the pockets 24 are of a lesser cross-sectional area. See, Figs. 2-3. However, at least some of the present

dependent claims (see, e.g., claim 10) require that the recess is formed by compressing all three layers: inner, outer, and middle. Clearly, this feature of the claimed invention is not met by Yates.

Thus, for these additional reasons, the recited invention is non-obvious and allowable over the cited references.

Reconsideration and withdrawal of all rejections and prompt issuance of a Notice of Allowance is requested.

Applicant hereby petitions under 37 C.F.R. §1.136 for any extension of time necessary for entry and consideration of the present Response. The Examiner is invited to contact Applicant's attorneys at the below-indicated telephone number regarding this Response or otherwise concerning the present application. Please charge any required fees for this Response, or otherwise concerning the present application, to Deposit Account No. 06-1130 maintained by Applicant's attorney.

Respectfully submitted,

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